

Summary of Actions

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR SESSION MEETING

Sunday February 26, 2017; 9:00 a.m.

31030 Broad Beach Road, Malibu, CA 90265

1. CALL TO ORDER

The Chair called the meeting to order at 9:07 a.m.

2. ROLL CALL

PRESENT: Chair Norton Karno, Vice Chair Marshall Grossman, Board Members Jeff Marine and Shaul Kuba (arrived at 9:11 a.m.)

ABSENT: Board Member Bill Curtis (participated by phone)

BBGHAD STAFF ALSO PRESENT: Project Engineer Russ Boudreau, Malibu West Advisor Chris Spiros, Project Counsel Ken Ehrlich, and Clerk/Treasurer Heike Fuchs.

3. ADOPTION OF AGENDA

The Chair recognized Project Counsel, who reported that the Agenda was posted on February 23, 2017 before 9:00 a.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. The Chair recognized Board Member Marine, who moved to adopt the Agenda as posted. The Chair recognized Vice Chair Grossman, who noted that Board Member Curtis requested the deletion of Item 14 from the February 26, 2017 Agenda in light of Board Member Curtis' absence from the February 2017 Board meeting. Board Member Marine modified his Motion accordingly. Vice Chair seconded the Motion. The Chair called the question and the Motion passed 3-0 (Board Member Kuba not yet present).

Closed Session

At 9:09 a.m. the Chair announced, without objection, that the Board would move into Closed Session.

Resumption of Regular Session

The Chair resumed Regular Session at approximately 9:58 a.m., and a report was given on Closed Session items.

The Chair recognized Project Counsel, who reported that the Board deleted the consideration of Item #14 due to the absence of Board Member Curtis. Project Counsel explained that, due to Brown Act requirements, Board Members participating by phone without recognition of same on the Agenda are not acting as a Board Member for purposes of this meeting and cannot vote on any matter.

6. APPROVE SUMMARY OF ACTIONS FROM JANUARY 22, 2017 MEETING

The Chair recognized Vice Chair, who moved to approve Summary of Actions from January 22, 2017, accommodating minor edits on page #3, #4, #6, and #7 as stated by Project Counsel. Board Member Marine seconded the Motion, and the Motion passed 4-0.

7. CEREMONIAL/PRESENTATIONS

None.

8. CONSENT CALENDAR

None.

9. PUBLIC HEARINGS

None.

10. OLD BUSINESS

- a. Permitting and Regulatory Process Status.
 - (i) Lead Agency Update
 - (A) CCC (and Science Advisory Panel)
 - 1. Budget update including sand, Habitat Monitoring Plan costs

The Chair recognized Project Counsel, who reported that staff along with Board Members Marine and Curtis had two (2) working sessions on January 23, 2017 and February 14, 2017, with CCC staff regarding the Marine Habitat Monitoring and Mitigation Plan (MHMMP or Habitat Plan). A discussion ensued regarding the status of the Habitat Plan.

(B) Army Corps

The Chair recognized Project Counsel, who reported that staff submitted a written Compensatory Mitigation Plan (CMP) to the Army Corps. Project Counsel further stated that Army Corps staff has informed BBGHAD staff that the Army Corps is committed to processing the BBGHAD's Environmental Assessment (EA) within 2 (two) months of the BBGHAD confirming the sand source for the Project.

A discussion ensued regarding aspects of Army Corps permitting.

(C) SLC

No separate report.

- (ii) Responsible & Consulting Agency update: RWQCB, NMFS, Cal. DFW, CalTrans, etc.

The Chair recognized Project Counsel, who reported that, based on the Army Corps' commitment to completing its EA, Project Counsel met with the RWQCB Executive Officer, Sam Unger, to alert him of the recent Army Corps developments. Mr. Sam Unger assured Project Counsel that the RWQCB schedule will be identical to the Army Corps and the RWQCB should not be an impediment in the permitting process.

Project Counsel further stated that Caltrans conceptually approved the traffic plan and traffic signal plan.

The Chair recognized Alexander Haagen, who asked Project Counsel about the status of the County of Ventura litigation. The Chair recognized Project Counsel, who responded that the court has asked for additional briefing twice on the following issues: 1) does applicable federal law preempt state law, and 2) does the BBGHAD-Moorpark agreement bind the BBGHAD for the duration of the permit to a specific truck route. Project Counsel stated that the Court will hear the County's writ petition on March 13, 2017 and the Judge should decide the matter the same day or shortly thereafter.

b. Permitting Outreach & Strategy Update.

The Chair recognized Project Counsel, who informed the Board that the BBGHAD's Army Corps lobbyist, Vectis Strategies, has proposed that a small BBGHAD delegation travel to Washington D.C. for 2 (two) days in the next 3 to 4 weeks to conduct various meetings with Army Corps staff, members of Congress, members of the Cabinet, and, potentially, White House staff. A discussion ensued regarding this potential lobbying trip and associated costs.

MOTION: The Chair recognized Vice Chair, who moved that Project Counsel proceed with planning this Washington D.C. trip as advised and supported by David Herbst and Vectis Strategies and, if supported by Vectis, schedule the meetings for the earlier part of March 2017. Board Member Marine seconded the Motion. Hearing no further debate, the Chair called the question. The Motion passed 3-0 (the Chair abstained).

The Chair recognized the Project Engineer, who informed the Board that he intends to be in Washington, D.C. on business unrelated to the Project, plans to meet with Congressman Lieu on this unrelated matter, and asked if he could thank Congressman Lieu for his continued support of the Project. The Vice Chair responded that Project Engineer should thank Congressman Lieu for his continued support, and seek his counsel on the planned Washington D.C. meetings.

c. Project Manager Search Update

The Chair recognized Project Counsel, who reported that he received a proposal from Shangri-La Construction late Saturday night to serve as Project Manager. Project Counsel added that he will upload the proposal to the BBGHAD website as well as circulate the letter to the

BBGHAD Board. Project Counsel recommended pursuing the proposal and to meet with Shangri-La Construction.

The Chair recognized Board Member Kuba, and a discussion ensued regarding Shangri-La's background, qualifications, and proposed charges for its services.

The Chair recognized Mr. Haagen, who inquired about the results of the non-binding ballots from the January 11, 2017 Property Owner Workshop. The Chair recognized Project Counsel, who responded that the results were discussed at the January 22, 2017 Board meeting, with approximately 35-40 responses received to date and a 3:1 majority favoring the Project.

The Chair recognized Mr. Haagen, who opined that some of the homeowners who voted in favor of the Project may change their mind based on their review of additional information. A discussion ensued regarding Mr. Haagen's input.

The Chair recognized Jane Arnault, who asked if the BBGHAD plans to pay for landscaping and irrigation system required by the CDP. The Chair recognized Project Counsel, who responded that the irrigation will be temporary, an estimated 2 (two) years, and that the Dune Plan has been completed and budgeted as part of the overall Project. The Chair recognized Max Factor, who suggested that the property owners should pay for the landscaping portion on their private property as the West End contributes 25% of the costs, but (according to Mr. Factor) does not have access to such landscaping.

The Chair recognized Ms. Arnault, who asked for a new, neutral and independent Engineer's Report, as she does not believe that ENGEO could have been neutral since it has been working with the BBGHAD for numerous years.

The Chair recognized Board Member Kuba, who asked Ms. Arnault if she is concerned with irrigation line item or the 25% annual Assessment. The Chair recognized Ms. Arnault, who responded that she has concerns with both. The Chair recognized Mr. Factor, who opined that the calculations in the existing Engineer's Report are unlawful under the California Constitution.

The Chair recognized the Vice Chair, who asked Project Counsel if a new Engineers' Report is due. The Chair recognized Project Counsel, who responded that no new assessment has been proposed and, therefore, no Engineers' Report is due.

The Chair recognized Mr. Haagen, who expressed opinions about various BBGHAD members' claimed understanding of the Project and requested more communication with owners. The Chair recognized the Vice Chair, who responded that there have been countless Q&A mailings, community forums, and the members of the Board, Project Counsel and staff have spent hundreds of hours answering such inquiries and briefing BBGHAD owners and others. The Chair recognized Board Member Marine, who acknowledged past communication efforts and stated his belief that communication could still be improved. Board Member Marine further stated that he attended 3 (three) meetings with CCC staff and believes that the CCC staff is not in favor of the Revetment-only option. Board Member Marine reported that staff is working diligently to maintain the assessment at an estimated \$600 per lineal foot.

11. New Business

None.

12. BBGHAD Officer Report

a. Treasurer's Report

The Treasurer reported that, as of February 21, 2017, the cash balance was \$2,431,620.88 and the unpaid bills amounted to \$804,743.67. The Treasurer reported that she will revise the Treasurer's Report and "Actuals Paid" according to the input received from the Chair.

13. BBGHAD Board Member Reports

The Chair recognized Vice Chair Grossman, who suggested that BBGHAD owners should understand the facts of the Project and educate themselves about the risks of not proceeding with the Project.

The Chair recognized Board Member Marine, who thanked Board Member Kuba for his and his company staff's time for the benefit of the Project.

The Chair recognized Board Member Kuba, who reiterated that the Board could improve communications and spend more time with the West End homeowners so they are comfortable with the fact that the monies spent are for the benefit of the entire community and not just a certain group of owners.

The Chair recognized Ms. Arnault, who concurred with Board Member Kuba's statement and separately opined that the West End does not receive any benefit from the Project. The Chair recognized Board Member Kuba, who suggested, as the Project budget is being finalized, all owners should be updated on Project costs.

The Chair recognized Mr. Haagen, who stated concerns regarding the ongoing and unknown costs and obligations of the Project. The Chair recognized Vice Chair, who suggested that Mr. Haagen spend time with Project Counsel to better understand the costs for the Project and a Revetment-only alternative.

The Chair recognized Board Member Marine, who stated that the CCC staff does not favor a Revetment-only alternative and believes that the permitting process for same would take years time along with costly studies and potential mitigation. Board Member Marine reiterated that senior CCC staff supports the Project.

The Chair thanked Board Member Kuba for his comments and suggested that he and Board Member Curtis take the lead on improving communications with west end owners—since they own properties on the west end. The Chair reiterated that the Board has never tried to influence the Engineer's Report in any way, and accepted the independent Engineer's Report.

14. Reconsideration of Resolution of Dispute Regarding Previous Assessment Overpayments by West End BBGHAD Owners.

No discussion.

15. Public Comment - Non-Agenda Items

The Chair recognized Pat Healey, who inquired about the timing of moving the revetment and Project start. The Chair recognized Project Engineer, who responded that the relocation is part of the Project and does not have to be moved immediately.

The Chair recognized Malibu West Advisor Spiros, who asked if the Board plans ^{To} conduct an official community vote on the Revetment-only alternative. The Chair responded that the Board is moving forward with the Project as presently defined and that the Board has not determined at this point to amend the Project. The Chair further added that, if the assessment would have to be increased, the community would vote on same in accordance with California law.

The Chair recognized Mr. Factor, who asked for clarification on the \$250,000 cap for the Army Corps mitigation and inquired if the CMP has been approved. Mr. Factor also inquired about the status of the mitigation ratio for the Project's potential destruction of eelgrass. The Chair recognized Project Counsel, who responded that the Army Corps has not yet approved the Project or the CMP. In connection with eelgrass, the CCC has committed in writing to the BBGHAD that it will not impose any monetary mitigation for the first 10 (ten) years of the Project. The BBGHAD will apply adaptive management techniques proscribed by the SAP and CCC staff after 5 (five) years, and may potentially alter the Project at year 10 and thereafter depending on Project results and performance.

The Chair recognized Pat Healey, who asked what happens if all the sand gets washed away. The Chair recognized Project Engineer, who responded that the Project calls for the revetment being covered with sand at all times, and the nourishment would be monitored and reassessed.

The Chair recognized Project Engineer, who updated the Board on the Dune Restoration plans. The Project Engineer reported that the plans have been evaluated by the CCC staff, and BBGHAD staff will present same at a later date.

16. Future Meeting

The Chair stated that the next BBGHAD meeting is scheduled for March 19, 2017 at 9:00 a.m., location to be determined. The Chair instructed the Clerk to inquire about Board Members' availability for the month of April and May 2017.

17. Adjournment

Board Member Marine moved, and Vice Chair Grossman seconded, to adjourn the meeting. The Motion passed 4-0 and the meeting adjourned at 11:55 a.m.